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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,428

05/10/2005

Jeffrey Keller Teumer

50393/004001

5032

21559

7590

05/18/2006

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

EXAMINER

GOUGH, TIFFANY MAUREEN

ART UNIT

PAPER NUMBER

1651

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/534,428

Applicant(s)

TEUMER ET AL.

Examiner

Tiffany M. Gough

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21, 29- 50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-21 and 29-50 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-21,29-33, drawn to a method for cultivating hair inductive cells.

Group II, claim(s) 34-36, drawn to a long term method of cultivation of dermal papilla or dermal sheath cells.

Group III, claim(s) 37, drawn to a method of providing and maintaining dermal papilla or dermal sheath cells.

Group IV, claim(s) 38,39, drawn to cultured hair inductive cells.

Group V, claim(s) 40-42, drawn to a method of treating male pattern baldness.

Group VI, claim(s) 43,44, drawn to a method of producing skin equivalents.

Group VII,claim(s) 45--47, drawn to a composition comprising hair inductive cells.

Group VIII, claim(s) 48-50, drawn to a culture medium for cultivation of hair cells.

The inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: A "special technical feature" is defined by PCT Rule 13.2 as "those technical features that define a

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contribution which each of the claimed inventions, considered as a whole, makes over the prior art." In the instant case, as discussed below, a number of the claimed inventions fail to make any contribution over the prior art. Because a number of the claimed inventions fail to make any contribution over the prior art, the claims as filed fail to contain a single common special technical feature supporting a showing unity of invention.

Specifically, as demonstrated by Naughton et al in the WO 00/69449,2000 document. Naughton et al demonstrate that the inventions described in claims 1-50 lack novelty and inventive step. Because those claims fail to make a contribution over the prior art, it is clear that all claims as filed fail to provide special technical feature common to all claimed inventions. Because the claims as filed lack a common special technical feature, the claims lack unity.

Lack of a common special technical feature, and therefore lack of unity, is further demonstrated by the fact that the various products claimed, enzymes, substrates/co-factors and agents all have vastly different properties. Moreover, because the various processes recited in the claims recite different process steps, it is clear that the process claim also lack a single common special technical feature, and therefore also lack unity

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany M. Gough whose telephone number is 571-272-0697. The examiner can normally be reached on M-F 8-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tmg



RUTH A. DAVIS
PATENT EXAMINER